



REGIONAL PERMIT

US Army Corps
of Engineers
Albuquerque District
4101 Jefferson Plaza, NE
Albuquerque, NM 87109-3435

Fax No. 505-342-3498

Regional Permit No:	Issuance Date:
CO-00-16900	January 6, 2000
Phone:	Expiration Date:
(719) 543-9459	January 6, 2005

In Reply Refer to:

District Engineer, ATTN: CESP-OD-R

REGIONAL PERMIT

UNDER SECTION 404 OF THE CLEAN WATER ACT (33 USC 1344) for Stream Habitat Improvement Structures in the State of Colorado

Purpose of this Regional Permit: The purpose of this regional permit is to authorize stream habitat improvements within Colorado which are substantially similar in nature and cause only minimal individual and cumulative environmental impacts. Activities which do not comply with the provisions of this regional permit may require an individual permit. Some of the activities authorized by this regional permit may be authorized by one or more nationwide permits. Such activities are included in this regional permit for ease of use and consistency of action. **This Regional Permit replaces RP CO-OYT-0169 which expired July 31, 1999.**

Permittees: The permittees are any Federal, state, local agency, member of the general public, or their authorized agents having management responsibilities within the State of Colorado.

Permit Area: This regional permit would be applicable to all waters of the United States, including wetlands, within the State of Colorado. A map showing the regional permit area is enclosed.

Scope of Work and Authorized Materials: Activities authorized by this regional permit are limited to stream habitat improvement within the permit area. The activities are limited to a maximum of 50 cubic yards of fill material placed below the ordinary high watermark of the waterbody for each structure. All plans must be coordinated with and approved by the Colorado Division of Wildlife. Types of authorized activities are listed below. Drawings showing typical activities are enclosed.

a. Boulder Retard (see drawings, sheet 2 of 4): Boulders or large rock may be placed in streams to improve stream habitat. Placing boulders in the stream will slow the current and dig out small pockets or pools, which are used as resting and feeding areas for fish.

b. Log and Rock Drops or Dams. (see drawings, sheet 2 of 4): Low-level dams may be constructed out of logs or rocks. they create small impoundments upstream and small ponds are scoured out downstream by water flowing over the dam.

c. Digger Logs (see drawing, sheet 2 of 4): Digger logs divert some of the normal stream flow beneath the log, which will scour out a small pool.

d. Fallen Trees (see drawing, sheet 3 of 4): Trees or brush may be placed in the stream and must be properly anchored to prevent washing away during high flows.

e. Trash Catcher (see drawings, sheet 3 of 4): Trash catchers may be constructed using steel fencepost, heavy duty hogwire, or chickenwire, rocks, and brush. A small impoundment will form upstream, and a small pool will be scoured out below the structure.

f. Deflectors (see drawing, sheet 4 of 4): Deflectors may be constructed out of logs, sheet piling, rock, and gravel. Deflectors speed up the current and scour out small pools. Increased current may clean silt and sand out of gravel, improving trout spawning habitat.

g. Artificial Cover: Artificial cover or overhangs may be constructed out of logs, wood, or rocks. Vegetational succession on top of a sodded platform will restore a natural appearance. Such a development provides hiding cover for fish.

h. Barriers: Barriers may be constructed out of wood or gabion baskets. Barriers may be needed to isolate pure strains of fish, such as the greenback cutthroat trout, Salmo clarki stomies.

j. Other Structures: Other structures designed to improve stream habitat may be constructed under this regional permit, provided prior approval is granted by the District Engineer.

Colorado Water Law: There are legal constraints in the Colorado Water Law on structures placed in a stream channel if it would in any way interfere with the exercise of a valid water right. If the owner of a water right finds that such an obstruction alters the channel in any way which is

detrimental to that right, it is incumbent upon the State Engineer to order the removal of that obstruction. If such a structure stores water and is within the jurisdictional conditions of a dam and reservoir, then the plans and specifications of such a structure must be approved by the State Engineer. If a structure causes water losses through evaporation or other means, injury can be claimed by other water users; and if it is determined that such a complaint is valid, the construction agency would be required to remove the structures.

Duration of the Regional Permit: This regional permit authorizes activities begun within 5 years and completed within 6 years after the date of issuance, unless the permit is revoked in the interim. Activities completed under authorization of the regional permit which was in effect at the time the activity was completed continue to be authorized by that regional permit.

Notification Procedures: The permittee must first notify the Corps of Engineers in writing. Work cannot proceed until the Corps of Engineers has provided written approval to the permittee. The permittee must provide the following information:

- a. Name, address, and telephone number of the party responsible for the work and the owner of the affected land, if different than the applicant.
- b. A complete description of the work, including the composition, source, and volume in cubic yards of all material to be discharged.
- c. Project location, including name of the waterbody, nearest town, county, and section, township and range.
- d. A letter from the Colorado Division of Wildlife (CDOW) stating that they have received and approved the project. To facilitate CDOW review, provide a summary justification of how the project will enhance aquatic resources.
- e. A set of drawings/sketches (on 8 1/2" x 11" paper with pertinent dimensions) showing:

- (1) The project location of a vicinity map with distances to roads, water towers, railroads or other landmarks.

- (2) Plan or top view of all work subject to Corps of Engineers jurisdictions

- (3) Cross-sectional or side views of all work.

- f. A description and evaluation of wetlands (including type) to be affected by the work. Also, impacts to wetlands and riparian areas should be quantified and shown on the drawings.

The information should reference Regional Permit No. CO-00-16900 and be sent to the appropriate Corps of Engineers Office. Refer to the enclosed map showing the District boundaries of the three offices operating in Colorado. These three offices are Albuquerque District, Omaha District, and Sacramento District. Please send your notification to the appropriate address given below:

Southern Colorado Regulatory Office
Albuquerque District, US Army Corps of Engineers
720 North Main Street, Suite 205
Pueblo, CO 81003-3046
Telephone: (719) 543-9459

Sacramento District
Western Colorado Regulatory Office
402 Rood Avenue, Room 142
Grand Junction, CO 81501-2563
(970) 243-1199

Omaha District
Tri Lakes Project Office
9307 Colorado State Highway 121
Littleton, CO 80123-6901
(303) 979-4120

The Corps of Engineers will review your request and inform you in writing that the work may proceed under the authorization given in this permit. An applicant must not start work until notified by the Corps of Engineers. If the work is not covered by this permit, you must apply for an individual Department of the Army permit.

Conditions of the Regional Permit: All activities authorized under this regional permit are subject to the following conditions.

- a. The permittee must comply with any case-specific special conditions which may be added by the Corps of Engineers to a specific activity.
- b. The work will not be located in the proximity of a public water supply intake without written approval of the entity operating the intake.
- c. The work will not be located where it will cause siltation, degradation, or otherwise adversely affect a privately or publicly owned irrigation water diversion structure, headgate, or other similar structures.
- d. Work will be conducted in a manner that will minimize turbidity of the water in the work area.
- e. This permit does not authorize work in a component of the National Wild and Scenic River System; nor in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status.
- f. All disturbed areas above the ordinary high water mark will be reseeded to prevent erosion.
- g. Whenever possible, operations will be conducted during low flow periods.
- h. Habitat improvements will not block systems used for navigation, including rafting and canoeing, or create a hazard to navigation in such streams.
- i. The permittee shall avoid wetlands where appropriate and take measures to protect wetlands from damage during construction.
- j. Discharges into fish spawning areas during spawning seasons should be avoided.
- k. Discharges into breeding and nesting areas for migratory waterfowl will be avoided.

l. All temporary fills will be removed in their entirety.

m. The discharge of dredged or fill material will not consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and must be free from toxic pollutants in toxic amounts.

n. No activity is authorized under this regional permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species.

o. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized under this regional permit until the Corps of Engineers has complied with provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the Corps of Engineers if the proposed activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and will not begin the activity until notified by the Corps of Engineers that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the Colorado State Historic Preservation Officer.

p. Representatives from the Corps of Engineers must be allowed to inspect the authorized activity at any time deemed necessary to ensure that it is being, or has been accomplished, in accordance with the terms and conditions of this permit.

Further Information:

a. State Water Quality Certification: In accordance with Section 401 of the Clean Water Act, regional general permits in the State of Colorado have been certified by statute pursuant to Colorado Revised Statutes 25-8-202 and 25-8-308.

b. Congressional Authorities: This regional permit is authorized pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

c. Other Laws: The permittee is responsible for obtaining all other Federal, state, or local authorizations required by law.

d. Limits of this Authorization: This regional permit does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize interference with any existing or proposed Federal project.

e. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following: damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activities authorized by this permit; design or construction deficiencies associated with the permitted work; or damage claims associated with any future modification, suspension, or revocation of this permit.

f. Reevaluation of Permit Decision: The Corps of Engineers may reevaluate its decision on this regional permit or individual activities authorized under this regional permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: the permittee fails to comply with the terms and conditions of this regional permit; the information provided by the permittee in support of their notification proves to have been false, incomplete, or inaccurate; or significant new information surfaces which the Corps of Engineers did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the regional permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by the Corps of Engineers, and if fails to comply with such directive, the Corps of Engineers may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill the permittee for the cost.

g. Renewal of the Regional Permit: This regional permit may be reviewed for reissuance prior to its expiration date. Any reissuance will be processed in accordance with 33 CFR 325.2 including a public notice and environmental procedures and documentation required by the National Environmental Policy Act of 1969.

Thomas N. Fallin
Lieutenant Colonel, EN
District Engineer

Enclosures